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FILED VIA EMAIL

Ms. Courtney Feely Karp
Massachusetts Department of Energy Resources
100 Cambridge Street
Suite 1020
Boston, MA 02114

Re: Comments on Proposed Final Regulations – Renewable Energy Portfolio Standards

Dear Ms. Karp:

Shell Energy North America (US), L.P. (Shell Energy) is an active participant in the electricity and Renewable Energy Credit (REC) markets throughout North America. Pursuant to the notice posted on the Massachusetts Department of Energy Resources (DOER) website, Shell Energy submits these comments on the proposed final regulations for RPS Class 1 renewable resources.

First, proposed Section 225 CMR 14.05(1)(e) creates new capacity obligations with respect to external resources' participation in the Massachusetts RPS. Generally, this provision requires Generation Unit Owners not to commit their capacity to another Control Area or affirmatively commit their capacity to the ISO-New England Control Area except under certain circumstances. With respect to proposed Subparagraph (e)1., capacity of a Class 1 resource is not required to commit to the ISO-New England Control Area if the Owner of such capacity has committed it to another Control Area before the "first available compliance year for the ISO-New England Capacity Market".

DOER should clarify the timing elements of this requirement and that type of obligation that can quality. It appears to mean that a capacity obligation of a Generation Unit made in another Control Area before the start of the next ISO-New England capacity compliance year will be exempt from the requirement not to commit to another Control Area for the duration of that commitment. Shell Energy supports such an approach since it does not interfere with commitments made in another area before this regulation becomes final. In addition, it should be made clear that the Capacity Obligation can take the form of a bi-lateral transaction with a third-party that is using it to meet existing and/or future Capacity Obligations in another control area. This would be a reasonable approach since transactions can and often times are made on a forward basis.

Under Subparagraph (e)(3), a Class 1 unit that is deemed unqualified for participation in ISO New England's Forward Capacity Market by the ISO for "technical reasons" can commit its capacity to another Control Area. Shell Energy supports the intent of the exception that DOER is proposing to the "no commitment rule" but the type or nature of the technical reasons that qualify for the exemption should be clearly identified and should include the inability to obtain sufficient capacity import rights from ISO New England for the capacity commitment period.

Second, Section 225 CMR 14.05 (5) sets out special provisions for Generation Units located in areas adjacent to the ISO-NE Control Area. Subparagraph (5)(a) requires a Generation Unit Owner to provide documentation that in part contains provisions for obtaining transmission rights for delivery of the Unit's electrical energy from the Unit to the ISO-NE Control Area. In addition, this documentation must be evaluated and verified by an independent third party paid for by the supplier. This requirement is vague and unnecessary. For example, there are several standard ways for delivering energy that are permitted under tariffs filed with the Federal Energy Regulatory Commission by adjacent Control Area operators. These can be identified and accepted by the Department, instead of imposing an unnecessary cost burden on renewable suppliers for independent evaluations.

Finally, Subparagraph (5)(d) requires that the Generation Unit Owner provide an attestation stating that it will not engage in the process of importing RPS Class 1 Renewable Generation, "…and then exporting that energy or a similar quantity of other energy out of the ISO-NE Control Area during the same hour." For companies like Shell Energy that engage in the business of independently arbitraging energy prices between two markets and fulfilling transactions to sell renewable energy from a Control Area adjacent to New England, this requirement may be an issue. This is not because there is any intention to create such wash trading scenarios, but because the price differences for RECs in Massachusetts can make it economic to sell renewable energy into New England even while the energy markets favor transactions in the opposite direction.

It is clear that the Department does not intend to discourage this bona-fide market activity, especially when imports involve intermittent resources, but the proposed rule may unexpectedly chill import or export activity involving such resources unless some clarification or changes are made to the language in this subparagraph. It is possible that there could be a few odd hours where transaction volumes for renewable imports match or are close to export volumes for a market participant in a given hour. The Department needs to make it clear that a few odd hours like that will not be a problem. Instead, the Department should require the market participant attest not to engage in a consistent course of conduct that demonstrates a pattern of importing renewable energy and exporting energy from other sources in substantially similar amounts during the same hours. This would be a far more reasonable approach that is consistent with the intent of the provision and that is commercially practicable.

Please feel free to call me with any questions concerning these comments.

Yours sincerely,

/s/ Matthew J. Picardi

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